



**CITY OF MARLBOROUGH
OFFICE OF CITY CLERK**

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JUNE 1, 2015

Regular meeting of the City Council held on Monday, JUNE 1, 2015 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Pope, Oram, Ossing, Robey, Delano, Page, Elder, Tunnera, Irish, Clancy and Landers. Meeting adjourned at 9:37 PM.

Council President Pope recognized the two new Sergeants for the Police Department, Sergeant Mercedes Roman and Sergeant Peter Bradley.

ORDERED: That the Minutes of the City Council meeting MAY 18, 2015, **FILE AS AMENDED**; adopted.

ORDERED: That the Youth Service Awards presented to the following, **FILE**; adopted.

- Julia Dougherty, who was nominated by Darren McLaughlin, for her work creating the Bernadette Program that collected 450 toys and gift cards for Child Life services last year in remembrance of her best friend, Bernadette La Follette.
- Kim Baker, Shayna Fine, Rafaella Alves, and Lauren Chamberlain, of the Touchstone Team, who were nominated by Sue Waudby, for their great volunteering contributions to Touchstone which provides services to residents in need.
- Ryan Vermilyea and Brittany Vermilyea, who were nominated by Janis White Haskins, for their consistent volunteer work with food drives, and the local charity motorcycle ride which raises money for scholarships.
- Brian Roberts and Mitchell Lombardo, who were nominated by Carol Manne, for their volunteer services at the Greater Marlborough Programs, Inc., which consisted of coaching and making a difference in many lives through the Special Olympics alpine ski program.

ORDERED: That the transfer request in the amount of \$34,000.00 which moves funds from Open Space Stabilization to fund the purchase of the parcel at 11 New St., **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Legal				FISCAL YEAR:	2015		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$855,693.19	\$34,000.00	83600	32918	Stabilization-Open Space	\$34,000.00	11510006	57605	Negotiation Expense	\$0.00
	Reason:	Stabilization				Negotiate Land Purchase			
	\$34,000.00	Total			\$34,000.00	Total			

Yea: 11-Nay: 0

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope, Robey &Oram

ORDERED: That the City of Marlborough received \$50,000.00 from Colonial Power as part of its negotiated municipal agreement to fund energy efficient improvements for the City of Marlborough and its residents, refer to **OPERATIONS & OVERSIGHT COMMITTEE**; adopted.

Councilor Ossing abstained.

ORDERED: Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Ezra Cutting Trust grant in the amount of \$6,000.00 to support the City’s partnership with the Rivers Edge Arts Alliance to support performances that are part of the “Family Fun Festivals”; adopted.

ORDERED: That the Proposed Changes to Polling Locations, refer to **OPERATIONS AND OVERSIGHT COMMITTEE**; adopted.

ORDERED: That the Appointment of Patricia Pope as the Executive Director of the Council on Aging, refer to **PERSONNEL COMMITTEE**; adopted.

President Pope abstained.

ORDERED: That the Application for Special Permit from NGP Management LLC for two drive-through windows at 525 Maple St. in proper legal form, Order No. 15-1006070D, **MOVE TO ITEM 21**; adopted.

ORDERED: That Communication from Assistant City Solicitor Panagore-Griffin re: Order of Taking and Plans-Farm Road Reconstruction, Order No. 15-1006181, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Assistant City Solicitor Panagore-Griffin re: Proposed Order of Amendment to § 650-26 A.(1)(a) of the Zoning Ordinance, Order No. 15-1006130A, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Communication from Attorney M^cCay on behalf of: NGP Management, to **WITHDRAW WITHOUT PREJUDICE**, Special Permit for Dunkin Donuts at 525 Maple St. Conditions, Order No. 15-1006070D, **MOVE TO ITEM 21**; adopted.

ORDERED: That the Communication from Attorney Gadbois on behalf of Ferris Development 325 DJL Boulevard LLC re: **WITHDRAWAL WITHOUT PREJUDICE** for Amendment to Zoning Ordinance, Order No. 15-1006185A, **APPROVED**; adopted.

ORDERED: That the Communication from Attorney Gadbois on behalf of Ferris Development 325 DJL Boulevard LLC re: **WITHDRAWAL WITHOUT PREJUDICE** for Special Permit for drive-thru and mixed use development, Order No. 15-1006200, **APPROVED**; adopted.

ORDERED: That Communication from the Planning Board re: Proposed Order of Amendment to § 650-26 A.(1)(a) of the Zoning Ordinance, Order No. 15-1006130, **MOVE TO REPORTS OF COMMITTEE**; adopted.

ORDERED: That the Application for Livery License, Onald Isidore, Genesis Transportation Services, 40 Mechanic St., Suite 107, refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That there being no objection thereto set **MONDAY, JUNE 15, 2015** as date for a **PUBLIC HEARING** On the Petition of Eversource to install 160' of 2" IP plastic gas main as a system improvement to 7 Corey Rd., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the Communication from Mosquito Control Project re: Investigating resident's complaints about mosquitos on the following dates: May 28, & June 3, 10, 17 & 24, **FILE**; adopted.

ORDERED: That the Minutes, Traffic Commission, March 31 and April 29, 2015, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- a. Richard Anzalone, 11 Casella Dr., residential mailbox claim 2(a).
- b. David Ritter, 22 Stow Rd., other property damage.

Reports of Committees:

Councilor Clancy reported the following out of the Legislative and Legal Affairs Committee:

Meeting Name: City Council Legislative & Legal Affairs Committee

Date: May 19, 2015

Time: 5:00 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 5:10 PM

Adjourned: 5:46 PM

Present: Chairman Clancy; Legislative & Legal Affairs Committee Members Councilors Robey and Delano; Councilor Page

Also Present: Evan Pilachowski, City Engineer; Assistant City Solicitor Cynthia Panagore Griffin

Order No.15-1006181: Communication from the Mayor with attached Order of Taking by Eminent domain regarding Farm Road Reconstruction Project.

City Engineer Evan Pilachowski explained the Order of Takings by Eminent Domain for the Farm Road reconstruction project to the Legislative and Legal Affairs Committee. There were nine different taking units across six properties, four of which were permanent. The five temporary easements are for erosion control during the reconstruction project. Assistant City Solicitor Panagore Griffin requested the committee ask for a suspension of the rules at their next regular City Council meeting on June 1, 2015 so it can be voted on the same evening. Chairman Clancy confirmed the order is in proper legal form and the updated plans, dated May 1, 2015, are currently missing from the documentation but will be present on their June 1, 2015 City Council Agenda.

Motion made by Councilor Delano, seconded by the Chair, to approve the Eminent Domain Order of Taking for the six properties listed with the six awards as shown. The motion carried 3-0.

Motion made by Councilor Delano, seconded by the Chair, to request a suspension of the rules so this item can be voted on at their next available City Council meeting. The motion carried 3-0.

Motion made by Councilor Delano, seconded by the Chair, to refer to the Legal Department to place in proper legal form for the June 1, 2015 City Council meeting. The motion carried 3-0.

Motion made by Councilor Delano, seconded by the Chair, to adjourn. The motion carried 3-0.

The meeting adjourned at 5:46 PM.

Reports of Committees cont'd:

Councilor Ossing reported the following out of the Finance Committee:

Marlboro City Council Finance Committee
Tuesday May 19, 2015
In Council Chambers

Present: Chairman Ossing; Finance Committee members Councilors Robey, Oram, Elder, and Irish. Councilors Pope, Delano, Clancy and Page were also in attendance. The meeting convened at 6:00 PM.

Order No. 15-1006211 – Transfer \$1,760,000.00 from the Undesignated Fund Account to Snow and Ice Accounts. The Finance Committee reviewed the Mayor's letter dated May 14, 2015 requesting the transfer of \$1,760,000.00 from the Undesignated Fund Account to the following three snow and ice accounts:

- \$414,714.00 – Overtime Snow and Ice
- \$800,380.00 – Snow Removal
- \$544,880.00 – Operating Expenses

The Finance Committee voted 5 – 0 to approve the transfers.

Order No. 15-1006212 – FY16 Snow & Ice Deficit Spending. – The Finance Committee reviewed the Mayor's letter dated May 14, 2015 requesting the City Council approve an order authorizing the City to incur liability and make expenditures in excess of appropriation for snow and ice removal in the amount of \$1,000,000.00. **The Finance Committee voted 5 – 0 to approve the order.**

Order No. 15-1006213 – Transfer \$500,000.00 from Undesignated Funds to Undesignated Stabilization. The Finance Committee reviewed the Mayor's letter dated May 14, 2015 requesting the transfer of \$500,000.00 from the Undesignated Funds account to the Undesignated to build the Stabilization account to coincide with the increase in the FY16 budget. **The Finance Committee voted 5 – 0 to approve the transfer.**

Order No. 15-1006214 – Year End Intra-Department Transfer Requests for \$467,647.00. The Finance Committee reviewed the Mayor's letter dated May 15, 2014 requesting \$467,647.00 in year end intra-department transfers to cover remaining expenses and balance accounts for FY15 for the Police Department, Fire Department, DPW and Public Facilities. **The Finance Committee voted 5 – 0 to approve the intra-department transfers.**

Order No. 15-1006216 – Transfer \$59,835.43 from various Accounts Controlled by the Comptroller. The Finance Committee reviewed the Mayor's letter dated May 14, 2015 requesting transfers totaling \$59,835.43 listed below:

- Transfer \$15,000.00 from Other Interest Account to Postage for mailings
- Transfer \$31,835.43 Water Debt Service and \$13,000.00 Water Interest to Workers Comp Account to replenish account

The Finance Committee voted 5 – 0 to approve the transfers.

Order No. 15-1006217 – Transfer \$18,000.00 from Undesignated Funds to Open Space Stabilization. The Finance Committee reviewed the Mayor’s letter dated May 14, 2015 requesting the transfer of \$18,000.00 from the Undesignated Funds account to the Open Space Stabilization account for the funds received from the FY14 wireless antenna receipts. **The Finance Committee voted 5 – 0 to approve the transfer.**

Order No. 15-1006218 – Request to Consolidation of Stabilization Accounts. The Finance Committee reviewed the Mayor’s letter dated May 14, 2015 requesting the consolidation of 14 stabilization accounts (\$1,166,486.36) into one undesignated stabilization account due to lack of activity and recommended in the FY14 Management letter from Roselli, Clark and Associates. The Finance Committee voted 5 - 0 to approve the consolidation of the accounts.

Order No. 15-1006219 – Renew Public Safety Revolving Fund for FY16. The Finance Committee reviewed the Mayor’s letter dated May 14, 2015 requesting the renewal of the Public Safety Revolving Fund for FY16. **The Finance Committee voted 5 - 0 to approve the renewal of the Public Safety Revolving Fund.**

Order No. 15-1006220 – Renew Parks and Recreation Revolving Fund for FY16. The Finance Committee reviewed the Mayor’s letter dated May 14, 2015 requesting the renewal of the Parks and Recreation Revolving Fund for FY16. The Sligo Hill Revolving Fund will be consolidated into the Parks and Recreation Revolving Fund. **The Finance Committee voted 4 - 0 (Councilor Elder abstained) to approve the renewal of the Parks and Recreation Revolving Fund.**

Order No. 15-1006215 – Transfer \$433,148.18 from Sligo Hill Antennae Account to Park & Recreation Antennae Revolving Fund. The Finance Committee reviewed the Mayor’s letter dated May 14, 2015 requesting a transfer of \$433,148.18 from Sligo Hill Antennae Account to Park & Recreation Antennae Revolving Fund. **The Finance Committee voted 4 – 0 (Councilor Elder abstained) to approve the transfer.**

Order No. 15-1006198 – Transfer \$731,875.00 from the Economic Development Account to Fund MEDC for FY16. The Finance Committee reviewed the Mayor’s letter dated April 30, 2015 requesting the transfer of \$731,875.00 from the Economic Development account to fund MEDC for FY16. The funds are from the local options hotel tax. **The Finance Committee voted 4 – 1 (Councilor Oram opposed) to approve the transfer.**

The Finance Committee agreed to support suspending the rules at the June 1, 2015 City Council meeting to report out all 11 items.

The Finance Committee adjourned at 7:38 PM.

Reports of Committees cont'd:

Councilor Delano reported the following out of the Urban Affairs Committee:

Meeting Name: City Council Urban Affairs Committee

Date: May 26, 2015

Time: 5:00 PM

Location: City Council Chambers, 2nd Floor, City Hall, 140 Main Street

Convened: 5:02 PM

Adjourned: 5:42 PM

Present: Chairman Delano; Urban Affairs Committee Members Councilors Clancy, Landers, Tunnera, and Page; Councilors Pope and Robey

Also Present: Arthur Bergeron, Mirick O'Connell; Assistant City Solicitor Cynthia Panagore Griffin

Order No. 15-1006130: Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended by amending the Zoning Ordinance as follows:

1. Replacing Section 650-26.A(1)(a) in its entirety with the following:

- (a) Number of affordable units. The development shall (i) provide that at least 15% of the dwelling units to be constructed for home ownership or rental purposes will be made available at affordable prices to home buyers or renters, or (ii) if authorized by a majority vote of the City Council, provide a sum equal to \$50,000 per affordable dwelling unit that would have been required hereunder, to be deposited in the fund for economic development created by Chapter 126 of the Acts of 2011, or another fund designated by the City Council.**

The Urban Affairs Committee met to discuss an amendment to the Zoning Ordinance of City Code for the City of Marlborough regarding the number of affordable units for developments of twenty or more units. The committee agreed to the option of payment in lieu of affordable housing units for a sum not less than \$50,000 per unit into the fund for economic development or another fund as designated by the City Council. The amended proposed language read as follows:

- (a) Number of affordable units. The development shall (i) provide that at least 15% of the dwelling units to be constructed for home ownership or rental purposes will be made available at affordable prices to home buyers or renters, or (ii) if authorized by a majority vote of the City Council, provide a sum equal to not less than \$50,000 per affordable dwelling unit that would have been required in (i) hereunder, to be deposited as directed by the City Council into the fund for economic development created by Chapter 126 of the Acts of 2011, or another fund designated by the City Council.

Motion made by Councilor Clancy, seconded by Chair, to approve as amended. The motion carried 4-1 (Tunnera opposed).

Motion made by Councilor Clancy, seconded by Chair, to introduce this under a suspension of the rules to be acted upon at the next regular City Council meeting. The motion carried 5-0.

Motion made by Councilor Clancy, seconded by Chair, to adjourn. The motion carried 5-0. The meeting adjourned at 5:42 PM.

Suspension of the Rules requested – granted

ORDERED:

Eminent Domain Order of Taking

WHEREAS, the City Council of the City of Marlborough has determined that the public welfare, safety, and common convenience require that legal interests in certain portions of land located on Farm Road and located on land at the intersections of Farm Road with Phelps Street, Helen Drive, and Broadmeadow Street (hereinafter, "Farm Road"), as more particularly described herein, be taken for the purpose of the reconstruction, construction, and maintenance of improvements to Farm Road, and for other municipal purposes, and that the taking by eminent domain is reasonable and necessary to carry out the aforementioned purposes; and,

WHEREAS, in order to promote the public welfare, safety, common convenience, and necessity, it is necessary to take by Eminent Domain the easement interests in the land for the purposes and duration described herein; and,

WHEREAS, all preliminary requirements of Massachusetts General Laws Chapter 79 having been complied with;

NOW, THEREFORE, IT IS HEREBY ORDERED that the City Council of the City of Marlborough, acting in accordance with the power and authority conferred by the City Charter, Division 1, Section 30, Massachusetts General Laws, Chapter 79 and every power and authority thereto enabling, and in the exercise of the power and authority conferred by said laws, does hereby take by Eminent Domain the easement interests or fee simple interest in the following described land, including all trees and other vegetation thereon.

DESCRIPTION OF LAND TAKEN

1. Street address: 500 Farm Road, Marlborough, MA 01752

Temporary easement for hay bale placement purposes: Being a 471 S.F portion of the property located on Farm Road, Marlborough, MA, known and numbered as Map 84, Parcel 105 on the Assessors' Map of the City of Marlborough and shown as Parcel TE-23 on Sheet 5 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Farm Road.

OWNERS: Alexander Akers & Augustine Onoja
500 Farm Road
Marlborough, MA

2. Street Address: 747 Farm Road, Marlborough, MA

Temporary easement for the purposes of grading, driveway reconstruction, and access to communications box services box (on utility pole): Being a 611 S.F. portion of the property located at 747 Farm Road, Marlborough, MA, known and numbered as Map 73, Parcel 46 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-64 on Sheet 11 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Farm Road.

OWNERS: David B. Richard & Patricia A. Richard
747 Farm Road
Marlborough, MA 01752

3. Street Address: 184 Helen Drive, Marlborough, MA 01752

Temporary easement for hay bale placement purposes: Being a 975 S.F. portion of the property located at 184 Helen Drive, Marlborough, MA, known and numbered as Map 85, Parcel 6 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-40 on Sheet 7 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Temporary easement for grading purposes: Being a 937 S.F. portion of the property located at 184 Helen Drive, Marlborough, MA, known and numbered as Map 85, Parcel 6 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-42 on Sheet 7 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easements shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Farm Road.

Permanent easement for culvert replacement and maintenance purposes: Being a 2,263 S.F. portion of the property located at 184 Helen Drive, Marlborough, MA, known and numbered as Map 85, Parcel 6 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel E-10 on Sheet 7 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

OWNER: William P. Shea
184 Helen Drive
Marlborough, MA 01752

4. Street Address: 233 Phelps Street, Marlborough, MA 01752

Temporary easement for grading and sidewalk purposes: Being a 100 S.F. portion of the property located at 233 Phelps Street, Marlborough, MA, known and numbered as Map 84, Parcel 139 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel TE-13 on Sheet 3 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

Said temporary easement shall automatically terminate and be of no further force or effect on and after the third anniversary of the date of entry by the City of Marlborough, its agents and employees, onto said land for the purposes of the reconstruction, construction, and maintenance of improvements to Farm Road.

Permanent easement for sidewalk construction and maintenance purposes: Being a 56 S.F. portion of the property located at 233 Phelps Street, Marlborough, MA, known and numbered as Map 84, Parcel 139 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel E-2 on Sheet 3 of 12 of a set of plans, dated May 1, 2015, entitled Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

OWNERS: Duarte Domingues & Maria Domingues
233 Phelps Street
Marlborough, MA 01752

5. Street Address: 10 Broadmeadow Street, Marlborough, MA 01752

Fee interest acquisition for sidewalk construction purposes: Being a 173 S.F. portion of the property located at 10 Broadmeadow Street, Marlborough, MA, known and numbered as Map 85, Parcel 10 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel 1-C on Sheet 8 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

OWNER: Charles P. Trombetta, Trustee
10 Broadmeadow Street Realty Trust
655 Farm Road
Marlborough, MA

6. Street Address: 479 Farm Road, Marlborough, MA 01752

Permanent easement for installation and maintenance of new utility support pole: Being a 68 S.F., more or less, portion of the property located at 479 Farm Road, known and numbered as Map 84, Parcel 96 on the Assessors' Map of the City of Marlborough, which portion is shown as Parcel PUE-28 on Sheet 5 of 12 of a set of plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc."

OWNERS: Marcos Flores & Lucy Montoya
479 Farm Road
Marlborough, MA 01752

Said plans, dated May 1, 2015, entitled "Right-Of-Way Plans, Farm Road, in the city of Marlborough, Middlesex County, by Vanasse Hangen Bruslin, Inc." to be recorded with the Middlesex South District Registry of Deeds together with an attested copy of this Order.

AWARDS

The City Council hereby makes the following awards for damages for the owner or owners of record:

<u>OWNERS</u>	<u>MARLBOROUGH ASSESSORS' MAP/PARCEL</u>	<u>AREA (LABEL ON PLAN)</u>	<u>AWARD</u>
Alexander Akers & Augustine Onoja 500 Farm Road Marlborough, MA	84-105	471 S.F. (TE-23)	\$468.00
David B. Richard & Patricia A. Richard 747 Farm Road Marlborough, MA 01752	73-46	611 S.F. (TE-64)	\$189.00
William P. Shea 184 Helen Drive Marlborough, MA 01752	85-6	975 S.F. (TE-40) 937 S.F. (TE-42) 2,263 S.F. (E-10)	\$8,901.00
Duarte Domingues & Maria Domingues 233 Phelps Street Marlborough, MA 01752	84-139	100 S.F. (TE-13) 56 S.F. (E-2)	\$404.00
Charles P. Trombetta, Trustee 10 Broadmeadow Street Realty Trust 655 Farm Road Marlborough, MA	85-10	173 S.F. (1- C)	\$87.00
Marcos Flores & Lucy Montoya 479 Farm Road Marlborough, MA 01752	84-96	68 S.F. (PUE-28)	\$272.00

APPROVED; adopted.

Suspension of the Rules requested – granted

ORDERED: That the Snow and Ice transfer request in the amount of \$1,760,000.00 which moves funds from Undesignated to various Snow & Ice accounts as noted on the attached spreadsheet to fund the FY15 deficit, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	DPW					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$3,253,241.69	\$1,760,000.00	10000	35900	Undesignated Fund	\$414,740.00	14001203	51390	Overtime-Snow & Ice	-\$414,733.32	
	Reason:	To fund the snow & ice deficit for FY15								
					\$800,380.00	14001206	52960	Snow Removal	-\$800,367.70	
	Reason:									
					\$544,880.00	14001206	57040	Operating Expenses	-\$544,835.63	
	\$1,760,000.00	Total			\$1,760,000.00	Total				

Suspension of the Rules requested – granted

ORDERED: That pursuant to Chapter 44, section 31D of the General Laws of the Commonwealth of Massachusetts, which authorizes the City to incur liability and make expenditures for any fiscal year in excess of appropriation for snow and ice removal, the City Council of the City of Marlborough, upon the recommendation of the Mayor, approves expenditures up to \$1,000,000.00 in excess of available appropriation for snow and ice removal for fiscal year 2016, **APPROVED**; adopted.

Suspension of the Rules requested – granted

ORDERED: That the transfer request in the amount of \$500,000.00 which moves funds from Undesignated to Undesignated Stabilization which coincides with the increase in the total budget, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Mayor					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$3,253,241.69	\$500,000.00	10000	35900	Undesignated Fund	\$500,000.00	83600	32925	Undesignated Stabilization	\$7,288,114.47	
	Reason:	To increase undesignated stabilization funds								
	\$500,000.00	Total			\$500,000.00	Total				

Suspension of the Rules requested – granted

ORDERED: That the various Year-end Intra-Departmental transfer requests as noted on the attached spreadsheets which include the monetary amounts and purpose, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Police					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available									Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$9,614.18	\$9,614.18	11990006	51500	Fringes	\$108,352.00	12100003	51920	Sick Leave Buy Back	\$0.00	
		Retirement payout for 2 employees								
\$437,344.50	\$38,737.82	12100001	50420	Police Officers	\$3,374.45	12100001	50510	Police Lieutenants	\$67,468.96	
		Funds available due to injuries & retirements								
\$62,738.82	\$13,738.82	12100003	51213	Public Safety Dispatchers						
		Funds available due to grant								
\$137,307.19	\$49,635.63	12100003	51440	Educational Incentive						
		Funds available								
	\$111,726.45	Total			\$111,726.45	Total				

CITY OF MARLBOROUGH											
BUDGET TRANSFERS --											
	DEPT:	FIRE					FISCAL YEAR:	15			
		FROM ACCOUNT:					TO ACCOUNT:				
Available										Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:		Balance	
\$5,000.00	\$5,000.00	12200003	51412	HAZMAT PAY	\$5,000.00	12200003	51328	CALL FIRE OVERTIME		\$5,784.05	
	Reason:	FEWER THAN EXPECTED RECEIVED HAZMAT CERTIFICATION PRIOR TO DEPARTMENT PAYOUT AND UNFILLED POSITION					BALANCE MAY NOT BE SUFFICIENT TO COMPLETE FY15				
\$19,924.90	\$5,000.00	12200003	51430	LONGEVITY	\$5,000.00	12200003	51328	CALL FIRE OVERTIME		\$5,784.05	
	Reason:	SURPLUS DUE TO RETIREMENTS					BALANCE MAY NOT BE SUFFICIENT TO COMPLETE FY15				
	\$10,000.00	Total			\$10,000.00	Total					

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Department of Public Works				FISCAL YEAR:		2015		
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$24,644	\$17,470	14001002	50062	Finance Assistant	\$2,130	14001001	50600	DPW Commissioner	\$13,035	
Reason:		Money available due to vacancy			Anticipated cost to cover remaining FY 15					
					\$15,340	14001305	55310	Highway Constr. Mater	\$19,721	
					Anticipated cost to cover remaining FY 15					
\$14,443	\$1,880	14001101	50640	City Engineer	\$1,875	14001305	55310	Highway Constr. Mater	\$19,721	
Reason:		Money available due to step increases			Anticipated cost to cover remaining FY 15					
					\$5	14001101	50705	Assistant Civil Engineer	\$10,417	
					Anticipated cost to cover remainder of FY15					
\$31,834	\$4,350	14001101	50710	Junior Civil Engineer	\$4,350	14001305	55310	Highway Constr. Mater	\$19,721	
Reason:		Anticipated Surplus			Anticipated cost to cover remaining FY 15					
\$48,577	\$10,200	14001301	50690	Foreman	\$8,500	14001305	55310	Highway Constr. Mater	\$19,721	
Reason:		Money available due to vacancy			Anticipated cost to cover remaining FY 15					
					\$1,700	14001303	51990	Meal Allowance	\$111	
					Anticipated cost to cover remainder of FY15					
\$4,400	\$4,000	14001103	51440	Educational Incentive	\$4,000	14001305	55310	Highway Constr. Mater	\$19,721	
Reason:		Contractual			Anticipated cost to cover remaining FY 15					
	\$37,900	Total			\$37,900	Total				

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Department of Public Works					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available	Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available
										Balance
	\$135,210	\$40,950	14001303	50740	Equipment Operators	\$13,000	14001303	51310	Overtime-Regular	\$1,083
	Reason:	Money available due to vacancy					Anticipated cost to cover remainder of FY15			
						\$4,800	14001303	51240	Temporary Part-time	\$2,800
							Anticipated cost to cover remainder of FY15			
						\$23,150	14001304	53140	Contract Services	\$7,025
							Anticipated cost to cover remainder of FY15			
	\$116,019	\$105,000	14001406	54830	Fuel & Lubricants	\$15,000	14001006	52450	Radio Repairs	\$0
	Reason:	Money Available due to W.C.					Contract & voice lines			
						\$15,000	14001304	53140	Contract Services	\$7,025
							Anticipated cost to cover remainder of FY15			
						\$15,000	14001406	54810	Rep/Maint Supplies	\$346
							Anticipated cost to cover remainder of FY15			
						\$35,000	14001305	55310	Highway Constr. Mater	\$1,289
							Anticipated cost to cover remaining FY 15			
						\$25,000	11920006	52200	Natural Gas	\$7,025
							Increase costs due to senior center			
	\$145,950	Total				\$145,950	Total			

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Department of Public Works					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available	Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available
										Balance
	\$56,274	\$16,000	14001501	50690	Foreman	\$16,000	14001306	55400	Sidewalk Maint.	\$248
	Reason:	Money Available due to W.C.					Emergency response as well as weekend burials			
	\$152,992	\$8,700	14001503	50740	Equipment Operator	\$6,700	14001304	53140	Contract Service	\$7,025
	Reason:	Money Available due to W.C.					Anticipated cost to cover remainder of FY15			
						\$2,000	14001503	51310	Overtime-Regular (FPC)	\$2,047
							Emergency response as well as weekend burials			
	\$152,992	\$64,000	14001503	50740	Equipment Operator	\$1,000	14001506	54240	License & Inspection	\$15
	Reason:	Money Available due to W.C.					Anticipated cost to cover remainder of FY15			
						\$1,000	14001506	54420	Misc Hand/Power Tool	\$7
							Anticipated cost to cover remainder of FY15			
						\$3,000	14001506	52500	Rep/Maint Equipment	\$1
							Anticipated cost to cover remainder of FY15			
						\$32,000	14001304	53140	Contract Services	\$7,025
							Anticipated cost to cover remaining FY 15			
						\$27,000	14001305	55310	Highway Constr. Mater	\$19,721
							Anticipated cost to cover remaining FY 15			
	\$64,000	Total				\$64,000	Total			

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
	DEPT:	Department of Public Works					FISCAL YEAR:	2015		
		FROM ACCOUNT:					TO ACCOUNT:			
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$7,926	\$976	60080001	50580	Assistant Chemist	\$976	61090003	51310	Overtime-Regular	3,502.97	
	Reason:	Money available due to vacancy					Anticipated cost to cover remainder of FY15			
\$4,000	\$4,000	60080003	51440	Educational Incentive	\$4,000	61090003	51310	Overtime-Regular	3,502.97	
	Reason:	Contractual					Anticipated cost to cover remainder of FY15			
\$49,080	\$6,287	60081001	50850	Sewage Tr Plant Opers	\$6,287	61090003	51310	Overtime-Regular	3,502.97	
	Reason:	Money available due to vacancy					Anticipated cost to cover remainder of FY15			
\$14,566	\$3,140	60081001	50910	Head Tr Plant Oper	\$3,140	61090003	51310	Overtime-Regular	3,502.97	
	Reason:	Anticipated surplus					Anticipated cost to cover remainder of FY15			
\$40,685	\$1,600	60081006	55950	East WWTP	\$1,600	60081003	51310	Overtime - Regular	\$1,746	
	Reason:	Anticipated surplus					Anticipated cost to cover remainder of FY15			
\$41,673	\$7,257	60085001	50850	Sewage Tr Plant Opers	\$7,257	61090003	51310	Overtime-Regular	3,502.97	
	Reason:	Money available due to vacancy					Anticipated cost to cover remainder of FY15			
\$3,501	\$860	60085006	55980	West WW Tr Plant	\$310	60085003	51310	Overtime-Regular	\$2,995	
	Reason:	Anticipated surplus					Anticipated cost to cover remainder of FY15			
					\$550	60085003	51470	Interim Foreman	\$285	
						Anticipated cost to cover remainder of FY15				
	\$19,144	Total			\$19,144	Total				

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		Department of Public Works				FISCAL YEAR:		2015		
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$30,918	\$11,700	61090001	50690	Foreman	\$11,700	61090006	55710	Water Maintenance	\$949	
Reason:		Money available due to vacancy				Anticipated cost to cover remainder of FY15				
\$105,577	\$21,200	61090001	50740	Equip Ops	\$21,200	61090006	55710	Water Maintenance	\$949	
Reason:		Money available due to vacancy				Anticipated cost to cover remainder of FY15				
\$5,351	\$5,351	61090003	51920	Sick Leave Buy Back	\$5,351	61090003	51310	Overtime-Regular	3,502.97	
Reason:		Money available due to vacancy				Anticipated cost to cover remainder of FY15				
	\$38,251	Total			\$38,251	Total				

CITY OF MARLBOROUGH BUDGET TRANSFERS --										
DEPT:		PUBLIC FACILITES				FISCAL YEAR:		2015		
		FROM ACCOUNT:				TO ACCOUNT:				
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$ 29,264	\$11,000	11920001	50690	Foreman	\$10,000	1192001	50292	Building Mtc. Craftsman	\$11,714	
Reason:		Suprlus due to vacancy				Under funded				
					\$1,000	11920001	50300	Assistant Director	\$3,546	
						Under funded				
	\$11,000.00	Total			\$11,000.00	Total				

Suspension of the Rules requested – granted

ORDERED: That Comptroller’s transfer requests in the amounts of \$15,000.00, \$31,835.43 & \$13,000.00 which moves funds from and to various accounts as noted on the attached spreadsheets to fund Postage and Workers Compensation Insurance respectively, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:		Comptroller				FISCAL YEAR:		2015		
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$40,000.00	\$15,000.00	17520006	59253	Other Interest	\$15,000.00	11330006	53460	Postage	\$6,897.18	
Reason:		Surplus				Needed to cover mailings				
\$31,835.43	\$31,835.43	61071106	59948	1999 Multi Purpose	\$44,835.43	11960006	51710	Workers Comp Ins	\$400,624.01	
Reason:		Surplus				Needed to replenish paid claims				
\$13,000.00	\$13,000.00	61075106	58948	1999 Multi Purpose Interest						
Reason:		Surplus								
	\$59,835.43	Total			\$59,835.43	Total				

Suspension of the Rules requested – granted

ORDERED: That the transfer request in the amount of \$18,000.00 which moves funds from Undesignated to Open Space Stabilization as the City received FY14 Wireless Antennae receipts, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:						FISCAL YEAR:		2015		
FROM ACCOUNT:					TO ACCOUNT:					
Available Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Available Balance	
\$3,253,241.69	\$18,000.00	10000	35900	Undesignated Fund	\$18,000.00	83600	32918	Stabilization-Open Space	\$855,693.19	
Reason:		To transfer annual wireless antennae payments received by the City in fiscal year 2014 to Open Space Stabilization								
	\$18,000.00	Total			\$18,000.00	Total				

Suspension of the Rules requested – granted

ORDERED: That the \$1,166,486.38 transfer request for Consolidation of Stabilization Accounts, **APPROVED**; adopted.

CITY OF MARLBOROUGH									
BUDGET TRANSFERS --									
	DEPT:	Mayor				FISCAL YEAR:	2015		
		FROM ACCOUNT:				TO ACCOUNT:			
Available									Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance
\$26,980.05	\$26,980.05	83600	32700	Stab-Neighborhood Mini Gr	\$1,166,486.38	83600	32925	Undesignated Stabilization	\$7,288,114.47
\$130,064.00	\$130,064.00	83600	32701	Stab-Public Safety Fud				To remove designations	
\$55,000.00	\$55,000.00	83600	32704	Stab-Harvard/Parmenter St					
\$19,800.00	\$19,800.00	83600	32705	Stab-Traffic Studies					
\$15,000.00	\$15,000.00	83600	32706	Stab-Millham Upgrade					
\$19,047.83	\$19,047.83	83600	32707	Stab-Rehab Pumping Station					
\$711,645.67	\$711,645.67	83600	32708	Stab-Cedar Hill St					
\$25,594.23	\$25,594.23	83600	32709	Stab-Signalization					
\$94,384.60	\$94,384.60	83600	32711	Stab-Capacity Study					
\$10,000.00	\$10,000.00	83600	32714	Stab-Robin Hill Cemetery					
\$25,000.00	\$25,000.00	83600	32715	Stab-Southwest Sidewalks					
\$2,720.00	\$2,720.00	83600	32718	Stab-Affordable Housing					
\$25,000.00	\$25,000.00	83600	32719	Stab-Route 20 Pedestrian					
\$6,250.00	\$6,250.00	83600	32720	Stab-Route 20 Beautification					
	\$1,166,486.38	Total			\$1,166,486.38	Total			

Yea: 11-Nay: 0

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope, Robey & Oram

Suspension of the Rules requested – granted

ORDERED:

Public Safety Revolving Fund

That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does, to be effective during fiscal year 2016, re-authorize a revolving fund to be utilized by the Mayor. It is further ordered that:

- (a) receipts credited to the fund shall be limited to an emergency dispatch fee due the City pursuant to its contract with Patriot Ambulance, unless otherwise directed by the General Laws; and
- (b) expenditures from said fund shall be limited to public safety training; and
- (c) the Mayor shall be the only officer authorized to approve expenditures from the same; and
- (d) no more than seventy-five thousand dollars shall be expended during Fiscal Year 2016, unless otherwise authorized by City Council and Mayor; and
- (e) the Mayor shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and
- (f) no provisions of this order shall be changed unless approved by the Mayor and City Council.

APPROVED; adopted.

Suspension of the Rules requested – granted

ORDERED:

Parks and Recreation Revolving Fund

That pursuant to the provisions of § 53E½ of Chapter 44 of the General Laws of the Commonwealth of Massachusetts, the City Council of the City of Marlborough, upon the recommendation of the Mayor, does hereby authorize a revolving fund during fiscal year 2016 for park and recreational facility maintenance and improvement purposes to be administered through the Department of Public Works. It is further ordered that:

(a) departmental receipts credited to the fund, unless otherwise directed by the General Laws, shall be limited to: 1) payments, fees and/or rental income due the City from owners of antennae and related telecommunications equipment located or co-located at the wireless communications facility situated on property under the care, custody, management and control of the Department of Public Works at the Easterly Wastewater Treatment Plant at 860 Boston Post Road in Marlborough or any land adjacent thereto; and 2) lease payments and fees due the City from owners of antennae and related telecommunications equipment located on Fairmount Hill; Sligo Hill and

(b) that expenditures from said fund shall be limited to the maintenance and improvement of municipal parks and municipal recreational facilities; and

(c) that the Commissioner of Public Works shall be the only officer authorized to approve expenditures from the fund; and

(d) no more than one hundred thousand dollars shall be expended during Fiscal Year 2016, unless otherwise authorized by the City Council and Mayor; and

(e) the Commissioner of Public Works shall prepare a year-end report identifying funds received, funds expended, description of expenditures and year-end balance; and

(f) no provisions of this order shall be changed unless approved by the Mayor and City Council.

APPROVED; adopted.

Councilor Elder recused.

Suspension of the Rules requested – granted

ORDERED: That the transfer request in the amount of \$433,148.18 which moves funds from Sligo Hill Antennae to Parks and Recreation Revolving Fund, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT:						FISCAL YEAR: 2015				
FROM ACCOUNT:						TO ACCOUNT:				
Available	Encumbered								Available	
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$433,148.18	\$433,148.18	26219201	52415	Sligo Hill antennae lease	\$433,148.18	26244401	52415	Parks & Recreation Revolving	\$599,276.39	
Reason:		To transfer balances to the Parks & Recreation revolving account								
\$433,148.18	Total					\$433,148.18	Total			

Councilor Elder recused.

Suspension of the Rules requested – granted

ORDERED: That the Marlborough Economic Development Corporation transfer request in the amount of \$731,875.00 which moves funds from Economic Development to MEDC Funding, **APPROVED**; adopted.

CITY OF MARLBOROUGH										
BUDGET TRANSFERS --										
DEPT: Mayor						FISCAL YEAR: 2015				
FROM ACCOUNT:						TO ACCOUNT:				
Available										Available
Balance	Amount	Org Code	Object	Account Description:	Amount	Org Code	Object	Account Description:	Balance	
\$919,689.52	\$631,875.00	27000099	42440	Economic Development	\$631,875.00	11740006	53950	MEDC Funding	\$0.00	
Reason:		To allow the MEDC to continue it's work in promoting the economic development of the City for FY16								
\$919,689.52	\$100,000.00	27000099	42440	Economic Development	\$100,000.00	11740006	53950	MEDC Funding	\$0.00	
Reason:		To capitalize a Revolving Loan Fund Program								
\$731,875.00	Total					\$731,875.00	Total			

Councilor Oram opposed.

Suspension of the Rules requested – granted

ORDERED: THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH NOW ORDAINS THAT §650-26 OF THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

By deleting the terms of §650-26 A.(1)(a) in their entirety and inserting in place thereof the following new terms:

§650-26 A.(1)

(a) Number of affordable units. The development shall (i) provide that at least 15% of the dwelling units to be constructed for homeownership or rental purposes will be made available at affordable prices to home buyers or renters, or (ii) if authorized by a majority of the City Council, provide a sum not less than \$50,000 per affordable dwelling unit that would have been required in (i) hereunder to be deposited as directed by the City Council into the fund for economic development created by Chapter 126 of the Acts of 2011 or into another fund designated by the City Council.

First Reading, suspended; Second Reading, adopted; Passage to Enroll, adopted; Passage to Ordain; adopted. Councilor Oram opposed to passage in one evening. This item will be placed on the agenda for the next City Council meeting on June 15, 2015.

ORDERED: That the Communication from Assistant City Solicitor Panagore-Griffin re: Proposed Order of Amendment to § 650-26 A.(1)(a) of the Zoning Ordinance, Order No. 15-1006130A, **FILE**; adopted.

ORDERED: Motion to recommend approval of a Sewer Extension Permit to Al Brodeur, South Street Auto, 412 South Street in conformance with the signed plans dated 10/20/2014 including the requirement to connect the sewer service from 492 South Street to the new sewer main and the abandonment of the portions of the 492 South Street sewer service within South Street and Mill Street North using flowable fill. Prior to any excavation on private property or within the public layout, the applicant shall secure a Street Opening & Trench Permit from the Marlborough Engineering Division. In order to secure this permit, the applicant shall provide a bond in a format acceptable to the City for 100% of the value of the work to be completed within the public layout and which is consistent with the latest version of the Rules & Regulations for Licensure and Street Openings.

APPROVED; adopted.

ORDERED: That the Communication from Attorney M^cCay on behalf of: NGP Management, to **WITHDRAW WITHOUT PREJUDICE**, Special Permit for Dunkin Donuts at 525 Maple St. Conditions, Order No. 15-1006070D, **DENIED**; adopted.

Councilor Robey recused.

ORDERED:

**DECISION ON A SPECIAL PERMIT
IN CITY COUNCIL**

Special Permit
NGP Management LLC
Order No. 15-1006070

**DECISION ON A SPECIAL PERMIT
CITY COUNCIL ORDER NO. 15-1006070F**

The City Council of the City of Marlborough hereby GRANTS the application for a Special Permit to NGP Management LLC (the "Applicant") for two (2) drive-through service windows for a restaurant located at 525 Maple Street, Marlborough, Massachusetts, as provided in this Decision and subject to the following Procedural Findings and Findings of Facts and Conditions.

FINDINGS OF FACT AND RULING

1. The Applicant is a duly organized and existing Limited Liability Company having a business address of 3 Pluff Avenue, North Reading, Massachusetts 01864.

2. The Applicant is the prospective owner of the property located at 525 Maple Street, Marlborough, Massachusetts, as shown on the Marlborough Assessors Maps as Map 104, Parcel 37 (the "Site").

3. The Applicant proposes to raze the existing structure on the Site and construct a new building for a restaurant with two (2) drive-through service windows (the "Project").

4. The Site is located in the CA Commercial Automotive Zoning District as determined by the Zoning Map of the City of Marlborough. The Site is a gateway to the City which is to be enhanced and beautified by the quality and character of the Project.

5. On September 30, 2014, the Zoning Board of Appeals issued a variance decision for the Site (the "ZBA Decision"), granting variances from certain requirements applicable to the Project under the Zoning Ordinance of the City of Marlborough (the "Zoning Ordinance").

6. The Applicant's use of the Site as a restaurant with drive-through service windows is allowed by special permit, pursuant to Section 650-14.B(2) and 650-17 of the Zoning Ordinance.

7. The Applicant, by and through its counsel, filed with City Clerk of the City of Marlborough an application for a special permit seeking two (2) restaurant drive-through service windows (the "Application").

8. In connection with the Application, the Applicant has submitted a certified list of abutters, filing fees, and a detailed site plan entitled "Site Plans Pursuant to City Zoning, Conservation Officer and Wetlands Ordinances for Dunkin Donuts 525 Maple Street (Route 85) in Marlborough Massachusetts (Middlesex County)", prepared by Waterman Design Associates, Inc., dated May 16, 2014, last revised December 22, 2014 (the "Plans").

9. The Plans were certified by the Building Commissioner of the City of Marlborough, acting on behalf of the City Planner for the City of Marlborough, as having complied with Rule 4, items (a) through (m), of the Rules and Regulations promulgated by the City Council for the issuance of a Special Permit.

10. Pursuant to the Rules and Regulations of the City Council for the City of Marlborough and applicable statutes of the Commonwealth of Massachusetts, the City Council established a date for public hearing on the Application and the City Clerk for the City of Marlborough caused notice of the same to be advertised and determined that notice of the same was provided to abutters entitled thereto in accordance with applicable regulations and law.

11. The Marlborough City Council, pursuant to Massachusetts General Laws, Chapter 40A, held a public hearing on the application on Monday, February 23, 2015.

12. The Applicant, through its representatives, presented testimony at the public hearing detailing the Project, describing its impact upon municipal services, the neighborhood, and traffic. No individual in attendance at the public hearing spoke in opposition to the project. The direct abutter residing at 168 Mill Street informed the City Council Urban Affairs Committee of her concerns that the operation of the drive-through window could have detrimental impacts on her property.

**BASED ON THE ABOVE, THE CITY COUNCIL MAKES THE FOLLOWING
FINDINGS AND TAKES THE FOLLOWING ACTIONS**

A. The Applicant has complied with all Rules and Regulations promulgated by the Marlborough City Council as they pertain to special permit applications.

B. The City Council finds that the proposed use of the Site is an appropriate use and in harmony with the general purpose and intent of the Zoning Ordinance of the City of Marlborough when subject to the appropriate terms and conditions as provided herein. The City Council makes these findings subject to the completion and adherence by the Applicant, its successors and/or assigns to the conditions more fully set forth herein.

C. The City Council, pursuant to its authority under Massachusetts General Laws Chapter 40A and the Zoning Ordinance of the City of Marlborough hereby GRANTS the Applicant a Special Permit to operate two (2) drive-through service windows as shown on the Plans filed, SUBJECT TO THE FOLLOWING CONDITIONS, which conditions shall be binding on the Applicant, its successors and/or assigns:

1. Construction in Accordance with Applicable Laws. Construction of all structures on the Site shall be in accordance with all applicable Building Codes and Zoning Regulations in effect in the City of Marlborough and the Commonwealth of Massachusetts, and shall be built according to the Plans as may be amended during Site Plan Review.

2. Compliance with Applicable Laws. The Applicant, its successors and/or assigns agrees to comply with all municipal, state, and federal rules, regulations, statutes, and ordinances as they may apply to the construction, maintenance, and operation of the Project.

3. Site Plan Review. The issuance of the Special Permit is further subject to detailed Site Plan Review in accordance with the City of Marlborough site plan review ordinance prior to the issuance of the building permit. Any additional changes, alterations, modifications or amendments, as required during the process of Site Plan Review, shall be further conditions attached to the building permit, and no occupancy permit shall be issued until the Applicant has complied with all conditions. Subsequent Site Plan Review shall be consistent with the conditions of this Special Permit and the Plans submitted, reviewed and approved by the City Council as the Special Permit Granting Authority.

4. Modification of Plans. Notwithstanding conditions #1 and #3 above, the Site Plan Review Committee may make engineering changes to the Plans, so long as said changes do not change the use of the Project as approved herein, or materially increase the impervious area of the Project, reduce the green area, alter traffic flow, increase the size, shape or position of the building, or alter the fencing bordering the property, all as shown on the Plans.

5. Signs and Awnings. The locations and design of signage shall be reviewed and approved by the City of Marlborough in accordance with the Sign Ordinance of the City of Marlborough without variance therefrom except as herein provided. No internally lit signs shall be used on the site or on the exterior of the building. External signage which advertises the Applicant's business and which is located on the building or on the site shall be wood of a design harmonious with the building design and aesthetics, shall be externally lit, and may include traditional Dunkin Donuts colors, letters, and logo against a white background. A photographic example of the desired wood exterior site sign is attached as Exhibit A. No internally lit interior signs shall be visible from the outside of the building. No posters, graphics, lettering or any other form of advertising shall be affixed to windows or hanging inside or in front of windows. Awnings shall not contain graphics or letters and shall not be orange or pink, but shall be a subdued color, harmonious with the design of the building. Electronic message boards and window signs are prohibited, with the exception of the menu board located inside the restaurant which is exempt from said prohibition.

6. Furniture, Equipment, and Umbrellas At The Patio. Patio furniture, equipment and umbrellas shall not be orange or pink, but shall be a subdued color which is harmonious with the design of the building.

7. No Parking, No Stopping and Loading Zone Signs, and the Loading Zone. The Applicant, its successors and/or assigns will reimburse the City for reasonable expenses for the installation of "No Parking" and "No Stopping" signage along Maple Street and "Loading Zone" signage in the loading zone along Mill Street South. The Applicant, its successors and/or assigns acknowledge that the loading zone at the rear of the proposed building is partially within a public way (Mill Street South). The Applicant, its successors and/or assigns will be responsible for paving, maintaining and plowing the loading zone area.

8. Building Design and Aesthetics. The appearance of the building shall be New England colonial style. The exterior materials for the building shall be red brick, or wood clapboards (including HardiePlank or equivalent cementitious clapboard siding) painted or stained in a muted color, or a combination of brick and wood clapboards. Architectural details, including without limitation trims, casings, rakes and fascias, shall be appropriate to the colonial style. Materials designed to imitate brick or stone are not permitted. With the exception of the drive-through windows, windows shall reflect the style of the building in scale and proportion, and shall be divided lite which may be simulated. Should the Applicant require a letter from the City to the Dunkin Donuts corporate office regarding the requirement of a colonial style building and/or muted exterior paint colors, the City will provide said letter. The building design and aesthetics shall be substantially in conformance with the revised Exterior Elevations submitted by the Applicant to the City Council on or about April 27, 2015 and attached as Exhibit B, which comply with the design and aesthetics conditions of this Decision. Photographic examples of other acceptable designs and materials found at other Dunkin Donuts facilities are attached as Exhibit C.

9. Incorporation of Submissions. All plans, photo renderings, site evaluations, briefs and other documentation provided by the Applicant as part of the Application, and as amended or revised during the application/hearing process before the City Council and/or the City Council's Urban Affairs Committee, including Exhibits hereto, are herein incorporated into and become a part of this Special Permit and become conditions and requirements of the same, unless otherwise altered by the City Council.

10. Hours of Operation. The hours of operation for the restaurant and drive-through windows shall not exceed Monday through Sunday, 4:00 a.m. to 11:00 p.m. There will be no 24-hour operation.

11. Trenching: All trenching shall be in compliance with Massachusetts law and pursuant to permits issued by the Engineering Division of the City's Department of Public Works.

12. Traffic Signage. The location and placement of pavement markings and traffic directional signage shall be reviewed and approved by the City of Marlborough during Site Plan Review in accordance with applicable rules and regulations of the City of Marlborough. Traffic and wayfaring signage shall be designed so as to complement the colonial style of the building.

13. Parking Area Rules. Parking areas will be swept and maintained by the Applicant, its successors and/or assigns as necessary. Pursuant to the provisions of Massachusetts General Laws c. 90, § 18, the Applicant, its successors and/or assigns shall submit to the Marlborough Traffic Commission a written request and grant of authority to promulgate legally enforceable rules and regulations for the control of on-Site and off-Site traffic and parking. The Applicant, its successors and/or assigns shall be responsible for providing, installing and maintaining all signage or markings required by the Marlborough Traffic Commission. Such signage or markings shall meet the standards of the Manual on Uniform Traffic Control Devices.

14. No Overnight Parking. There shall be no overnight parking at the Site.

15. Storm Water and Erosion Control Management. During construction, the Applicant, its successors and/or assigns shall be required to hire a site engineer who shall be competent in stormwater and erosion control management. The credentials of this individual(s) shall be acceptable to the Engineering Division of the City's Department of Public Works and the City's Conservation Commission. This individual(s) shall be responsible for checking the Site before, during, and after storm events including weekends and evenings when storms are predicted. This individual(s) shall ensure that no untreated stormwater leaves the Site consistent with the State's and the City's stormwater regulations. This individual(s) shall ensure compliance with the approved sequence of construction plan, the approved erosion control plan. The Applicant, its successors and/or assigns shall grant this individual(s) complete authority of the Site as it relates to stormwater and erosion controls.

16. Easements to City. If deemed necessary by the City Engineer during Site Plan Review, prior to construction of the Project, the Applicant, its successors and/or assigns shall establish and grant to the City utility easements for the construction, maintenance or repair of existing City infrastructure including, but not limited to, water, sewer and drains. Landscaping in the area of such easements shall be coordinated by the Applicant, its successors and/or assigns with the Engineering Division of the City's Department of Public Works in the field so as to avoid conflicts with existing infrastructure.

17. Street Opening. In connection with the installation of improvements within public rights-of-way which require a street opening permit, the Applicant, its successors and/or assigns shall provide the City Engineer with a schedule of work and the construction procedures to be utilized prior to the commencement of such work. To the extent a police detail is required for such improvements, the Applicant, its successors and/or assigns, and not the City of Marlborough, will bear the costs of any police detail for any work performed within the public way.

18. Work in Public Ways. Any work performed within the travelled way on Maple Street and Mill Street South shall be done by the Applicant, its successors and/or assigns during off peak hours and, prior to commencement of such work, the Applicant, its successors and/or assigns shall provide a traffic management plan relating to the same for approval by the Engineering Division of the City's Department of Public Works.

19. Drive-Through Speakers. The drive-through window shall employ a pedestal speaker system of a quality that seeks to minimize the noise emanating from the speaker system, in accordance with the noise ordinance of the City of Marlborough. The drive-through audio speakers will be positioned directionally as shown on the Plans as submitted to the City Council and/or the Urban Affairs Committee. The drive-through audio speakers also shall not produce noise at the property line greater than that which would be allowed in a residential zone pursuant to the Noise Ordinance of the City of Marlborough. The City Council reserves the right to review the noise levels and positioning of the drive-through audio speakers for one year after the operation of the drive-through window commences.

20. Deliveries. In order to mitigate noise concerns for residential abutters, no deliveries to the Site shall occur prior to 7:00 a.m. except for the early morning, daily delivery of donuts and perishable items by a small box truck, van or similar sized vehicle. All possible measures shall be taken to avoid noise and not disturb neighbors. Deliveries by semi-trailers shall not occur prior to 7:00 a.m. or after 7:00 p.m. Delivery trucks making deliveries to the Site may only park on the Site or in the designated loading area along Mill Street South.

21. Lighting. All illuminations of individual parking lot light fixtures shall not exceed 200-incandescent-equivalent watt fixtures. Where ever feasible, such as at walks and at the building entrance, lighting fixtures shall be period or ornamental fixtures selected to complement the architecture. The parking lot light fixtures and light fixtures which are located on the exterior of the building shall be period or ornamental selected to complement the architecture. The design of the parking lot light fixture attached as Exhibit D complies with this paragraph of the Special Permit. The configuration, height, brightness and number of parking lot light fixtures shall be sufficient for safety purposes but shall be limited to the extent possible to avoid causing a nuisance to abutting properties. The final lighting plan shall be reviewed and approved by the Site Plan Review Committee, consistent with this Decision.

22. Landscaping. The Applicant, its successors and/or assigns agrees to plant and maintain in good condition the Project's landscaping substantially in conformance with the Plans as submitted to the City Council and/or the City Council's Urban Affairs Committee, as may be amended during Site Plan Review or by subsequent agreement of the Site Plan Review Committee or City Engineer.

23. Drive-Through Operations at Neighboring Restaurant. On or before the date that the Project first operates the drive-through windows authorized by this Decision, the Applicant, its successors and/or assigns, shall abandon with prejudice the drive-through window use at the restaurant currently operated by the Applicant located at 312 Maple Street in Marlborough. The Applicant, its successors and/or assigns shall cause this Special Permit Decision (once recorded in the Middlesex South Registry of Deeds) to appear in the chain of title for the 312 Maple Street property.

24. Drive-Through Window. The Police Chief or his designee, may, for the purposes of protecting public safety and in the exercise of his professional discretion, order the temporary closure of the drive-through facilities.

25. Trash. Applicant, its successors and/or assigns agrees to screen the Project's trash area by constructing a six foot (6') white vinyl fence screen of a design compatible with the building. Applicant, its successors and/or assigns further agrees that the dumpsters located on the Site will be covered. No trash pickup shall occur before 7:00 AM or after 7:00 PM.

26. Snow Removal. Snow storage and removal is to be maintained and conducted on site by Applicant, its successors and/or assigns in accordance with Condition #2 of the Decision of the City of Marlborough Zoning Board of Appeals dated September 30, 2014, and as hereinafter provided. Applicant, its successors and/or assigns shall remove snow accumulation from the site if accumulation is more than two inches (2") in a 48 hour period.

27. Non-Severability of Conditions: If any of the above conditions is deemed to be invalid by a court of competent jurisdiction, then this Decision shall be null and void.

28. Recording of Decision: In accordance with the provisions of M.G.L. c. 40A, § 11, Applicant, its successors and/or assigns at its expense shall record this Special Permit in the Middlesex South Registry of Deeds after the City Clerk has certified that the twenty-day period for appealing this Special Permit has elapsed with no appeal having been filed, and before a Building Permit is issued. Applicant, its affiliates, successors and/or assigns shall also furnish proof of recording to the City Solicitor's Office and the City Council immediately subsequent to recording.

Yea: 10 – Nay: 0 – Abstain: 1

Yea: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, Ossing, Pope, & Oram

Abstain: Robey

ORDERED:

MOTION made by Councilor Robey to amend the Finance Committee's FY2016 Budget by deleting the reduction of the Electricity Account, 1920-52120, of \$250,000.00 and delete \$250,000.00 from the FY2016 School Budget of \$61,100,000.00-**DOES NOT CARRY BY A ROLL CALL VOTE AS FOLLOWS:**

Yea: 3-Nay: 8

Yea: Ossing, Pope, Robey

Nay: Delano, Page, Elder, Tunnera, Irish, Clancy, Landers, & Oram

That the FY16 budget of \$142,787,762.00 which represents a 4.16% increase from the FY15 budget or an increase of \$5,701,239.00, **APPROVED**; adopted.

ORDERED: That the Appointment of Richard Cygan, to the Council on Aging for a four year term to expire from date of approval, **APPROVED**; adopted.

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:37 PM.